

REMARKS

Claims 1-41 remain pending in this application.

The drawings have been amended (specifically, Figures 4-7) in order to address the objections in the Notice of Draftperson's Patent Drawing Review. A Submission of Formal Drawings is being filed herewith, which includes Figures 1-7. Therefore, Applicants respectfully request that the objections to the drawings be withdrawn. Applicants respectfully assert that no new matter has been added as a result of the amendments to the drawings.

Claims 18 and 37 have been amended to correct informalities therein and are not made for purposes of patentability. The amendments are not presented to overcome any rejection or to distinguish the claims over the prior art.

The Examiner rejected claims 4 and 6 under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 4 and 6 have been amended to overcome the Examiner's rejections. Applicants respectfully assert that claims 4 and 6 are now allowable.

The Examiner rejected claims 1-7 and 37-41 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,958,027 (*Gulick*) in view of U.S. Patent No. 6,021,129 (*Martin*). Applicants respectfully traverse this rejection.

Applicants respectfully assert that the claim rejections under 35 U.S.C. § 103 are improper for at least the reasons provided below. For example, the Examiner cites prior art

Gulick in view of *Martin* to provide for an obviousness-type rejection of the claims. Applicants respectfully assert that it is improper to use *Gulick* for the rejection under 35 U.S.C. § 103. The Examiner uses *Gulick*, which is a § 102(e) prior art, to reject the claims under 35 U.S.C. § 103. *Gulick* and the present application have a common Assignee, Advanced Micro Devices, Inc. (AMD), at the respective dates that *Gulick* and the present application were filed. Therefore, *Gulick* is not a proper prior art for a 35 U.S.C. § 103 rejection.

Claims 1-7 and 37-41 stand rejected under 35 U.S.C. § 103(a) as being obvious over *Gulick* in view of *Martin*. The instant application is assigned to Advanced Micro Devices, Inc. At the time of the instant invention, U.S. Patent No. 5,958,027 (*Gulick*) was also assigned to Advanced Micro Devices, Inc. Because the instant application and the cited patent were commonly owned at the time of the invention, Applicants are entitled under 35 U.S.C. § 103(c) to disqualify *Gulick* as prior art under 35 U.S.C. § 103(a). Therefore, the rejection of claims 1-7 and 37-41 is thus moot. Applicants respectfully request the rejection of these claims be withdrawn.

As provided by the Examiner in the Office Action dated August 2, 2004, it is clear that neither *Gulick*, nor *Martin*, by themselves, as indicated by the Examiner, could possibly disclose, suggest, or make obvious, all of the elements of claim 1 of the present invention. The Examiner uses *Martin* to disclose the element of the automatic adjusting of a data rate based upon the adjustment of the transmission rate. However, other elements of claims of the present invention, such as a frame tracking unit capable of automatically adjusting a data rate based upon a data frame error, are not taught, disclosed, or made obvious, by *Martin*. Additionally, as

mentioned above, *Gulick* cannot be used to make up for this deficit since *Gulick* cannot be used as prior art for the rejection under 35 U.S.C. § 103.

Furthermore, Applicants respectfully assert that *Martin* does not teach frame tracking, much less adaptive frame tracking, which is called for by claim 1 of the present invention. *Martin* merely mentions the term "frame" in the context of avoiding losing accuracy due to large frame rates of a universal serial bus. However, *Martin* does not disclose an adaptive frame tracking as called for by claim 1 of the present invention. Additionally, even if *Gulick* and *Martin* were to be combined, all of the elements of claim 1 would not be taught, disclosed, suggested, or made obvious. The combination of *Gulick* and *Martin* does not provide for the adaptive frame tracking called for by the claims of the present invention. Therefore, even the combination of *Gulick* and *Martin* would not make obvious all of the claims of the present invention. However, as described above, since *Gulick* cannot be used as prior art since it is being used as § 102(e) prior art in a rejection under 35 U.S.C., Applicants respectfully assert that the Examiner withdraw the rejection of claims 1-7 and 37-41 and allow claims 1-7 and 37-41. Accordingly, in light of at least the reasons provided above, claims 1-7 and 37-41 are allowable.

Independent claims 1, 37 and 41, are allowable for at least the reasons cited above. Additionally, dependent claims 2-7 and 38-40, which depend from independent claims 1 and 37 are also allowable for at least the reasons cited above.

Reconsideration of the present application is respectfully requested.


In light of the arguments presented above, Applicants respectfully assert that claims 1-41 are allowable. In light of the arguments presented above, a Notice of Allowance is respectfully solicited.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Houston, Texas telephone number (713) 934-4069 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,

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